

Attorney Docket No.: C6656(C)  
Serial No.: 10/748,038  
Filed: December 30, 2003  
Confirmation No.: 6775

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figs. 1, 2 and 4. These sheets, which include Figs. 1, 2 and 4, replace the original sheets including Figs. 1, 2 and 4. In Figures 1, 2 and 4, element 60 has been changed to 66.

Attachment: Replacement Sheet  
Annotated Sheet Showing Changes

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### **REMARKS**

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Independent claim 1 has been amended to incorporate original claims 3 and 4. Further, claim 1 has been amended to identify that the aperture in the patch is positioned off-center from a central point of the patch. Figures 2 and 4 support the off-center arrangement of aperture 62. Independent claim 9 has been similarly amended.

Claims 1-13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Paulovich et al. (US Patent 6,523,724) in view of Barnby et al. (US Patent 2,254,815). Applicant traverses this rejection.

The Examiner has recognized that Paulovich et al. lacks patch 60 having an aperture 62. Also lacking is a backing layer (120) that is releasably adhered to the outer surface of the patch such that the backing layer separates from the patch when the vent cap is loosened.

Barnby et al. was cited for showing the patch having an aperture 23 to permit excessive gas pressure to be released. The Examiner considered that "it would have been obvious to one of ordinary skill in the art to have modified the Paulovich et al. patch with an aperture as taught by Barnby et al. to permit excessive gas pressure to be released."

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Applicant utilizes an aperture for the release of a vacuum created by a dispensed liquid through spigot 42. The claimed venting closure is meant to suck atmospheric air into the head space above liquid level within the container. This is quite the opposite from release of pressurized air from within a container. Those skilled in the art seeking to solve a problem related to vacuum formation would not consult one directed toward pressure release.

Not only is the function different from that of the Barnby et al. vent but so is the presently claimed structure. Applicant requires that the aperture of the patch be positioned off-center. Indeed, the optimum function is for the aperture to be positioned near an outer perimeter of the circular patch. This arrangement permits the container to hold a greater amount of liquid product without the latter leaking out of the vent opening. See Fig. 3 and compare levels 70 to 72.


A combination of Paulovich et al. in view of Barnby et al. would not render the instant invention obvious. The primary reference lacks disclosure of a patch having an aperture. Barnby et al. uses a "patch" with a centered aperture 23. The purpose of the Barnby et al. "patch" is to release pressure. By contrast, applicant's patch is utilized to suck air into the container to relieve a partial vacuum. For this purpose, the aperture is placed off-center to allow minimization of head space and thereby a greater amount of liquid to be introduced into the container. Finally, there is the further structure of a backing layer that is releasably adhered to the outer surface of the patch in the present invention. This feature has no parallel in either of the references. Accordingly, a combination of the two reference patent documents would not render the instant invention obvious.

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Certain of the dependent claims are also non-obvious in light of the references. Of particular note are claim 7 and 14. These require a raised portion 130 on an outer surface of the vent cap 57 used to align the cap in the proper position during assembly.

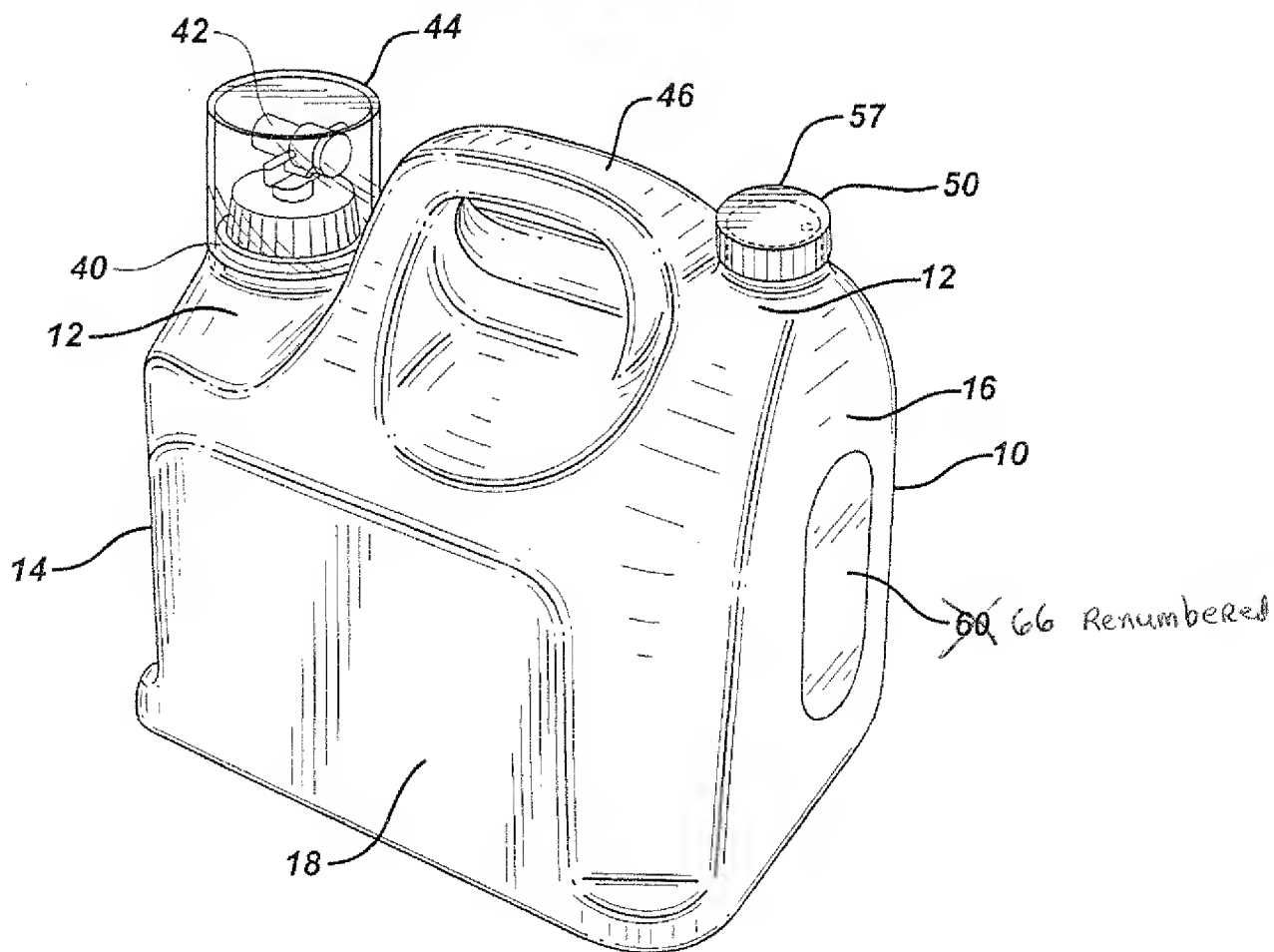
In view of the foregoing amendment and comments, applicant requests the Examiner to reconsider the rejection and now allow the claims.

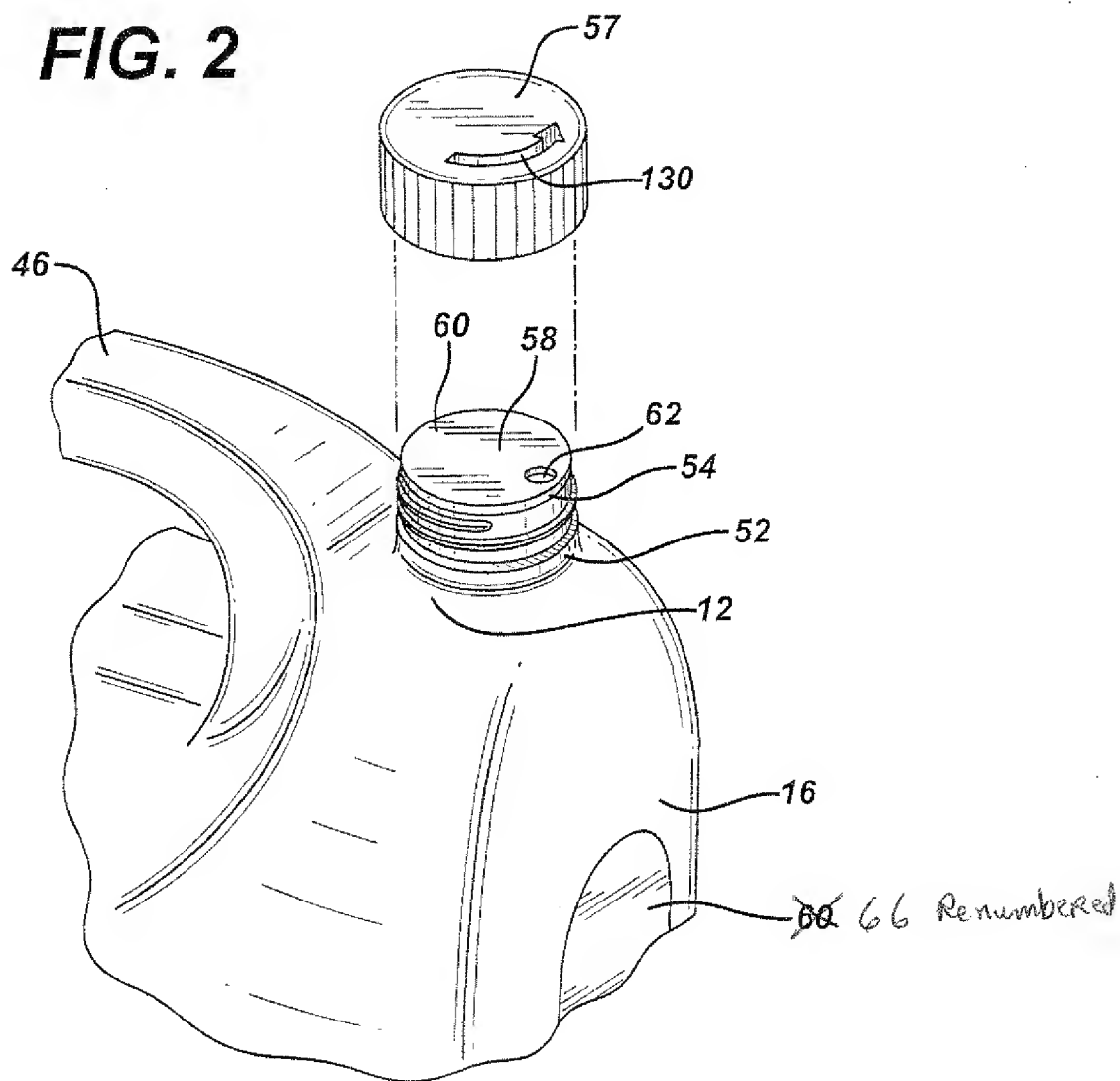
Respectfully submitted,

  
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**FIG. 1**



**FIG. 2**

**FIG. 4**